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CHAPTER VII -REVIEWING OTHER AGENCY ENVIRONMENTAL DOCUMENTS

A. General. The BLM reviews other agencies' environmental documents on request. The BLM's role in the review process falls into one of three categories depending on the nature of the request:

1. Lead Agency for the Department. When assigned by the Assistant Secretary for Policy, Budget and Administration (AS/PBA), the BLM assumes lead or joint lead agency responsibilities for the Department in preparing review comments on other Federal agencies' environmental impact statements (516 DM 7).

2. Reviewing Agency for the Department. When AS/PBA assigns lead agency responsibility to another Interior bureau or office, the BLM provides review comments on other Federal agencies' environmental impact statements to the designated lead agency in accordance with AS/PBA instructions (516 DM 7).

3. Other Requests. The BLM is often asked to review and comment on environmental documents that are not processed through the AS/PBA. Such documents may include State or local environmental statements or reports, environmental assessments, or other Interior agency EIS's which are not processed through the Department.

B. Scope of Review. At a minimum, the BLM must review and comment on matters which addressor relate to its areas of legal jurisdiction as defined by law and/or areas of special expertise (40 CFR 1503.2). The Council on Environmental Quality published in the Federal Register a list of Federal and Federal-State agencies with jurisdiction by law, a statutorily mandated consultative role, or special expertise on environmental quality issues (F.R. Vol. 49, No. 247, 12/21/84). The BLM's areas of legal jurisdiction and -- special expertise are summarized in Appendix 9.

C. Coordination of Review Process.

1. Department of the Interior Coordination. The AS/PBA, through the Office of Environmental Project Review (OEPR), coordinates the Departmentwide review of other Federal agencies' environmental impact statements (516 DM 7.3).

2. BLM Washington Office Coordination. The Division of Planning and Environmental Coordination (WO-760) coordinates the environmental review process bureauwide. All review requests made to the Director of BLM, including those processed through the AS/PBA, are coordinated by WO-760.

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3. BLM State Office Coordination. The State Directors coordinate the environmental review process within their jurisdiction. State Directors must designate an individual to serve as the State Office contact for environmental review and provide this information to WO-760. WO-760 should be advised of any reassignment of this responsibility. The State Office contact should maintain records, such as a log, on reviews completed as necessary to manage review activities. The State Office contact is responsible for maintaining the official file copies of correspondence and other materials used for or related to environmental reviews when assigned as lead office.

D. Procedures for Review (516 DM 7).

1. Assignment of Lead Agency. The AS/PBA determines which Interior bureaus and/or offices should review draft and/or final environmental documents prepared by other Federal agencies and assigns an Interior agency to serve as lead, as appropriate, in the preparation of a consolidated Departmental response. In some cases, more than one agency may be assigned as lead (i.e., joint lead). The AS/PBA forwards copies of the environmental document to all reviewing bureaus/agencies or offices with a transmittal letter which identifies: the lead agency assigned to prepare the Department's consolidated response; the schedule of when comments are to be forwarded to the lead agency as well as when the final consolidated response is due to OEPR; the environmental review number (ER#) for referencing the document; and any special instruction regarding the preparation of the response, e.g., for whose signature the response should be prepared.

2. Assignment of BLM Lead Office. In response to AS/PBA and other requests for review of environmental documents received by the Director, WO-760 determines which State Office and/or program office should review the environmental document and assigns the appropriate State Office or Washington program office the responsibility for assembling comments and preparing the response. When a review involves more than one State Office, WO-760 determines which State Office will have the lead responsibility. When a review involves a Washington program office and a State Office, WO-760 designates lead office assignments in cooperation with affected offices.

3. Distribution of Review Copies. WO-760 transmits copies of the environmental document to all appropriate State Offices and Washington program offices for review and comment. The transmittal will indicate the scheduled due dates, whether or not a response is required or optional, and the assigned BLM lead office. State and/or Washington program offices can at any time make a request to WO-760 to change the lead office assignment or to obtain joint or cooperating status for preparation of the response.

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4. Preparation of Response. Each assigned BLM office reviews the document and prepares comments as requested. Procedures for preparing the response vary according to the source and nature of the request:

a. When not assigned as lead office for the BLM, reviewing offices should forward their comments directly to the appropriate BLM lead office. A "no comment" response can be communicated via telephone unless instructions indicate that comments must be in writing. Copies do not need to be forwarded to WO-760.

b. When assigned as lead office for the BLM and the AS/PBA has designated BLM as the lead agency for the Department, the BLM lead office coordinates and obtains comments from all reviewing agencies or offices within the Department, including other BLM offices, and prepares a consolidated 'Departmental response. In keeping with Departmental requirements, the consolidated Departmental response must be prepared and sent forward for signature by the AS/PBA or the Regional Environmental Officer (REO), as appropriate, by or before the established due date. (See 516 DM 7.5 for guidance on the content and appropriate format for Departmental responses.) A sample response is shown in Illustration 1. Detailed instructions regarding surnaming, distribution of copies and required attachments are found in 516 DM 7.7B. Copies do not need to be forwarded to WO-760 unless specific instructions indicate otherwise.

c. When assigned as lead office for the BLM and the AS/PEA has designated another Interior agency/office as lead for the Department, the BLM lead office assembles all BLM comments and prepares a consolidated BLM response for the Director's or State Director's signature as appropriate. The BLM response must be sent to the lead agency by or before the established due date. Copies of the BLM response must be forwarded to the AS/PBA. Copies do not need to be forwarded to WO-760 unless specific instructions indicate otherwise.

d. When assigned as the BLM lead office for reviews not processed through the AS/PBA, the BLM lead office follows the instructions accompanying the request. For example, WO-760 may assign a BLM lead office to prepare a consolidated BLM response to a request for review of an EIS prepared by another Interior agency. Additional instructions, including surnaming, distribution of copies and due dates, will accompany such WO-760 assignments. A copy of the response should be provided to the REO if there are any comments involving significant or controversial issues.

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e. When a request for review is made directly to a State Director or other field official, the receiving office should evaluate the request to determine whether or not a Departmental or BLM consolidated response is necessary or appropriate (see 516 DM 7.7A(2)). If a consolidated review response is necessary or appropriate, the request should be forwarded to WO-760 for handling. If, however, a consolidated response is neither necessary nor appropriate, it may be handled directly by the State 'Office or Washington program office to which the request was made. WO-760 and the RHO must be advised of any request that involves significant or controversial issues. Copies of responses do not need to be forwarded to WO-760.

5. Consultation with WO-760. The SO or WO program office contact should consult WO-760 on any issues or concerns which may arise in the review and consolidation process, including but not limited to those which may lead to the need for an extension of the deadline (see 516 DM 7.7A(3)). WO-760 will intervene, if necessary, to resolve such issues or concerns.

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SAMPLE ENVIRONMENTAL REVIEW RESPONSE

Comments on non-Interior Federal agency environmental documents should include an introduction which identifies the document reviewed and any general conclusions regarding its adequacy, general comments on the document which identify major areas of concern, and detailed comments which itemized specific concerns or problems by section or page number. For each concern or problem, a suggestion for resolving or addressing the concern or problem should be identified. Gaps in information or data should be specifically described and, if known, sources identified. Generally BLM's comments should focus on areas for which the BLM has jurisdiction by law or special expertise. The following is an example of a environmental review response where the BLM was the lead agency for the Department.

ER 84/1201

Honorable Kenneth F. Plumb, Secretary
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D. C. 20426

Dear Mr. Plumb:

The Department of the Interior has completed its review of the Application for License, Zack Brothers Project, FERC No. 6156-003, Mono County, California, and recommend that the license not be issued at this time. The application lacks specific information needed to analyze potential impacts to natural resources and lacks adequate mitigation proposals for those environmental consequences that are recognized. The following comments are presented by topic headings as discussed in the license application. If the applicant satisfactorily addresses these concerns in a revised Exhibit E, we would be willing to reconsider our opposition. Subsequently, if this application is formally accepted by you, the Department will, at that time, provide final comments.

General Comments:

The proposed project will impact public lands managed by the Bureau of Land Management (BLM), Bakersfield District Office and physically occupies a Federal reservation as defined in Section 3(2) of the Federal Power Act (FPA).

Therefore, it is our opinion that the provisions of Section 4(e) of the FPA apply.

The proposed project lies within BLM's South Benton Management Area of the Benton Planning Unit. The Land Use Decisions for the area allow no further stream channelization on public lands.

Further, one of the Management Decisions applicable to the entire planning unit is as follows:

"No further stream diversions will be allowed without an assessment of environmental effects, specifically the cumulative effects, with the possible exception of emergency diversions to avoid potential flooding and there are to be of a temporary nature not to exceed one year."

Many of our specific comments may become irrelevant upon receipt of the answers to the following general questions:

1. Total c.f.s. to be diverted by the proposed project for which months of the year.
2. Amount of vegetative disturbance expected during construction (length and width) and operation/maintenance (length and width).
3. Proposed procedure for crossing the existing facility in Section 7 without disrupting the existing operation.

Specific Comments:

A-1 Pipeline

No description of the type or number of "bleed stations" to be utilized was found in the document. Type, number and placement of "stations" should be coordinated with the California Department of Fish and Game, Forest Service and BLM biologists.

E-2 Seismic Characteristics

Which agency was contacted in order to obtain data? Has any activity or change in position on "gap theory" occurred since 1971?

E-2 Hydrology

The document states the estimated maximum flow of Pellisier Creek to be 6.5 c.f.s., which is to occur from June through August, and that the hydraulic capacity of the proposed systems is rated at 9 c.f.s. (Pg. A-4). Does this imply that the full flow, up to 9 c.f.s. will be diverted with no flow to continue in the present channel? How and/or where were the "Measured Streamflow - CFS - Pellisier Creek" figures obtained? It is questionable to use data from a one year period to estimate average stream flows. Especially if the year produced 100 year flood run-off.

Our investigations of the combined outflow of Pellisier and Middle Creeks in August of 1976 revealed a flow of 2 c.f.s. We feel a more realistic average minimum flow of Pellisier Creek during the low flow regime would likely be less than 1 c.f.s.

We agree that Pellisier Creek does have a fairly well established growth of riparian vegetation. It is estimated that at least 60,000 gallons of water per day is needed in the natural channel to maintain a moderate amount of the approximate 1.3 acres of riparian vegetation occurring on Bureau administered lands. (This is only 9% of the current "leakage" and "overflow.")

E-5 Vegetation

We disagree that the "riparian corridors are limited to narrow 1-5 meter strips." Host of the riparian areas measures 5-20 meters wide and reflect a substantial amount of productive habitat in an otherwise xeric vegetation association.

E-6 Wildlife Resources

The chart noting verified and unverified mammals should be amended to reflect that these are the number of each species trapped over a May trap period in 1978, and that no survey has been conducted in the area since that time.

The document states that desert bighorn are considered a unique species and inhabit the White Mountain front. No mention is given of the Importance of Bureau administered lands to this species or the effect this project would likely have on its habitat (i.e., critical habitat, winter storm refuge, etc.).

No discussion was found relating to the importance of this area to pronghorn antelope (i.e., water sources, feeding sites, fawning and maternal group areas).

Long-term scientific investigations are ongoing concerning the biology of the desert bighorn and pronghorn antelope in this area.

E-7 Soils/Erosion/Watershed

Executive Orders 5631 and 5843 withdraw the entire project area from settlement, location, sale or entry under the public land laws and is reserved for municipal water supply purposes. In accordance with the definition of "Reservations," found in Section 3(2) of the FPA, 16 U.S.C. Section 796(2) (1979), these lands are considered reserved. The passage of FLPMA did not alter these withdrawals or any of their restrictions.

E-8 Cultural Historic

Prior to any meaningful review of the cultural section, a cultural resources survey (as per 36 CFR 800.4(a) (1) and (2)) and subsequent compliance with Section 106 of the National Historic Reservation Act of 1906, if necessary, would have to be conducted.

At present, the Archeological Research Unit, University of California, Riverside, does not collect information on historic sites. This information must be obtained either through the land managing agencies and/or a survey of the area.

The Carson and Colorado Railroad lies in the vicinity of the project area. The Hammil Ditch (referred to as the existing ditch in the document) is also an historic structure.

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E-8 Land Uses

Implementation of changing grazing use on the Marble Creek Allotment and abandonment of BLM range project #7548 has not yet been accomplished.

E-12 Project Construction/Operation/Maintenance Characteristics

It was not clear to this office whether a change in the riparian areas associated with Middle and Birch Creeks would be realized as an effect of the proposed project.

The operator of the existing system could not legally "replace, repair or otherwise improve the system and thus eliminate this artificial habitat, on public lands. A right-of-way has not been granted for that portion of the system occupying Bureau administered lands (application received 2/1984). The operator did obtain a Special Use Permit LUR 5803 from the U.S. Forest Service on 11/4/1982 for that portion of the system on the Inyo National Forest.

Environmental Significance Checklist1. Earth

(b) If the pipeline crosses any washes via underground laying, how wide would the "narrow strip of soil disturbance" be? Would soil disturbance be realized by the use of equipment? If so, over what areas (i.e., staging areas, equipment storage areas, turnaround areas, construction road(s), dam construction area, etc.)?

(e) If this Impact is not "confined to on site locations only," what measures would be proposed to mitigate this impact?

3. Water

(c) We disagree that recovery of riparian vegetation would occur rapidly after construction of the diversion dam. With elimination of any stream flow below the diversion dam, riparian vegetation would very likely never recover. The current quality of the riparian vegetation in that portion of Pellisier Creek administered by the Bureau would be eliminated. What measures would be proposed to reasonably insure the retention of quality and quantity of riparian vegetation below the dam?

4. Plant Life

(a) There would be a loss in the number and diversity of phreatophytic plants. Would any mitigation measures be proposed?

5. Animal Life

(a) There would be a loss in the number of passerine and raptorial (particularly owls) birds as a direct result of riparian vegetation loss. Would measures be proposed to mitigate this impact?

20. Cultural Resources

(a), (b), (c) and (d) How were these "effects" determined prior to a cultural survey being conducted and, if necessary, subsequent compliance with Section 106 of the National Historic Reservation Act of 1906?

E-20 Mitigation

Upon revision of the Application of License, the Bureau of Land Management would like to participate in the formation of this section with the applicant.

Thank you for the opportunity to review and comment on this notice of application.

Sincerely,

Patricia Sanderson Port
Regional Environmental Officer